

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS
AUGUST 15, 2017**

ITEM 5

SUBJECT

WATER RIGHTS PERMITTING FOR FISH AND WILDLIFE ENHANCEMENT PROJECTS

DISCUSSION

Trout Unlimited and the State Water Board's Division of Water Rights (Division) permitting staff will update the Board on water rights permitting for fish and wildlife enhancement projects. The update is provided in response to comments made by California Trout and Trout Unlimited during a [February 2017 Board presentation](#) on restoring ecological functions through coordinated water management approaches.

The Division administers California's post-1914 appropriative water right system, including issuance of new water rights permits and processing of change petitions to modify existing water right permits and licenses. The water rights permitting process can be lengthy, due to multiple factors such as the complexity of a project, the requirements of the California Environmental Quality Act and North Coast Instream Flow Policy, the public trust doctrine, protests filed by interested parties, and the water availability analyses required to make findings for issuance of permits and orders.

Prioritization Criteria

Fish friendly permitting projects include applications to appropriate water and change petitions that provide ecological benefits to fish and wildlife. In 2011, the State Water Board established and then implemented [prioritization criteria](#) for the processing of water right applications and change petitions. In addition to projects of regional or statewide significance, projects that are designed to minimize or avoid impacts to the environment are also prioritized. This prioritization process includes projects that will enhance conditions for fish and wildlife, where a party reduces or ceases a low flow season diversion under an existing right (typically memorialized in an [instream flow dedication](#)) and replaces it with high flow season diversion to storage under a new permit. Other examples identified in the prioritization criteria include: 1) removal of an artificial barrier to the migration of anadromous fish; 2) replacement of onstream storage with offstream storage; 3) relocation of a point of diversion to reduce impacts to aquatic resources; 4) changes to frost protection practices undertaken pursuant to an existing water right that improve habitat for aquatic resources (which could include moving a point of diversion, adding or expanding storage in order to reduce instantaneous demand during frost events, improving efficiency, or implementing alternative frost protection techniques); and 5) other activities that create fish and wildlife habitat with improved streamflows.

Permitting Staff Augmentation

While the prioritization criteria have focused staff on the highest priority projects, the workload for new and pending [applications](#) and [petitions](#) did not diminish significantly. To address limited resources for the growing workload, the Division requested and received an augmentation of seven new permitting staff in Fiscal Year 2016/17. These additional resources allowed the Division to reorganize and separate application and petition processing to improve efficiency and boost productivity.

Dedicated Staff Person for Publicly Funded Projects

Beginning in July 2015, the California Wildlife Conservation Board (WCB) funded one full time staff position at the Division to work exclusively on water right applications and petitions funded through WCB's Proposition 1 California [Stream Flow Enhancement Program](#), which seeks to support projects that provide flow-related benefits to fish and wildlife. Most of the projects funded will be related to instream flow dedication projects pursuant to Water Code section 1707.

Website Improvements

In July 2016, the Division updated the [Applications](#) and [Petitions](#) webpages to assist all water right applicants, including proponents of fish and wildlife friendly projects, in understanding the permitting process.

The Division recently permitted a project involving Trout Unlimited. Since this project was the first to use a specific pathway through the [North Coast Instream Flow Policy](#) relevant to fish enhancement projects, the project was used to generate example documentation. Division staff shared this documentation on the North Coast Instream Flow Policy website to assist in the development of similar future projects. Moving forward, other examples will be posted as they become available.

Ideas for Future Improvements

The Division will continue to seek out ways to streamline permit processing. Staff will continue to implement the Board's prioritization criteria, including those that place emphasis on projects that enhance fish and wildlife. Additionally, the WCB-funded staff person will be available to provide expedited processing to any of the WCB-funded projects that need water rights approval. Since the February 2017 Board Presentation, Division staff and Trout Unlimited have met and identified several preliminary areas of interest to continue to explore, including a screening tool for water availability. Staff will also continue discussions with Trout Unlimited and any other interested parties that come forward, to receive input on future program improvements.

POLICY ISSUE

None. This is an informational item only.

FISCAL IMPACT

None. This is an informational item only.

REGIONAL BOARD IMPACT

None. This is an informational item only.

STAFF RECOMMENDATION

None. This is an informational item only.

State Water Board action on this item will assist the Water Boards in reaching Goal 5 of the Strategic Plan Update: 2008-2012 to improve transparency and accountability by ensuring that Water Board goals and actions are clear and accessible.